

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CAROL MELTON,

Plaintiff,

-against-

**POUGHKEEPSIE CITY SCHOOL DISTRICT,

Defendant.**

**AFFIRMATION IN SUPPORT
OF MOTION FOR
SUMMARY JUDGMENT**

**Civil Action No. 19-CV-09755
(VB)**

MARK C. RUSHFIELD, ESQ., being an attorney admitted to the practice of law before this Court, hereby deposes and says:

1. I am an attorney, of counsel to the law firm of Shaw, Perelson, May & Lambert, LLP, which is counsel for the Defendant Poughkeepsie City School District (“District”) in this action. As such, I am fully familiar with the facts and proceedings heretofore had herein. I make this affirmation in support of a motion for summary judgment dismissing the pro se Plaintiff’s amended Complaint in this action in all respects pursuant to Fed. R. Civ. P. 56.
2. The instant action is one brought by the Plaintiff to assert claims arising after June of 2017 that were barred from being included in the Plaintiff’s earlier substantially similar action in *Melton v. Poughkeepsie City School District*, 16-CV-97012 (VB), which covered the Plaintiff’s claims against the District up to the end of the 2016-17 school year. That action (hereinafter “Action I”) was dismissed by the Court by the grant of summary judgment to the District in Action I on September 24, 2019 in [*Melton. v.*](#)

Poughkeepsie City Sch. Dist., 16 CV 9701 (VB), 2019 U.S. Dist. LEXIS 163254 (S.D.N.Y. Sept. 23, 2019).

3. Submitted herewith as Exhibit A is the amended Complaint in this action.
4. Submitted herewith as Exhibit B is the Court's Memorandum Endorsement dated September 26, 2019 in Action I with attachments thereto.
5. Submitted herewith as Exhibit C is the new Complaint that the Plaintiff sought to file with the Court in Action I following the Court's grant of the District's motion for summary judgment.
6. Submitted herewith as Exhibit D is the Affidavit of Dr. Ronel Cook, with exhibits thereto, filed in support of the District's motion for summary judgment in Action I.
7. Submitted herewith as Exhibit E is the transcript of the deposition of the Plaintiff in Action I.
8. Submitted herewith as Exhibit F is the transcript of the deposition of the Plaintiff in this action.
9. Submitted herewith as Exhibit G is Exhibit H to the deposition of the Plaintiff in this action.
10. Submitted herewith as Exhibit H is Exhibit F to the deposition of the Plaintiff in this action.
11. Submitted herewith as Exhibit I is Exhibit U to the deposition of the Plaintiff in this action.
12. Submitted herewith as Exhibit J is Exhibit X to the deposition of the Plaintiff in this action.

13. Submitted herewith as Exhibit K is my July 15, 2021 email to the Plaintiff and her then limited *pro bono* counsel, Derrick Carman, Esq., confirming and requesting the Plaintiff's production to me of an alleged email from Lisa Clark to applicants for a teaching assistant assignment that advised recipients that attendance at a group interview was required for consideration of appointment and the Plaintiff's emailed response of July 27, 2001 with an email from Lisa Clark dated May 15, 2017 to the Plaintiff, which makes no reference to attendance of a group interview being a condition for consideration of any and all applicants for the "ESY Teacher Assistant position."
14. Submitted herewith as Exhibit L is Exhibit M to the deposition of the Plaintiff in Action I.
15. Submitted herewith as Exhibit M is Exhibit N to the deposition of the Plaintiff in Action I.
16. Submitted herewith as Exhibit N is Exhibit O to the deposition of the Plaintiff in Action I.
17. Submitted herewith as Exhibit O is the transcript of the deposition of Natasha Cherry in this action.
18. Submitted herewith as Exhibit P is the transcript of the deposition of Nadine Elting-Dargan in this action.
19. Submitted herewith as Exhibit Q is Exhibit BB to the deposition of the Plaintiff in this action.
20. Submitted herewith as Exhibit R is the District's published Policy 6830.
21. Submitted herewith as Exhibit S is Exhibit P to the deposition of the Plaintiff in this action.

22. Submitted herewith as Exhibit T is Exhibit AA to the deposition of the Plaintiff in this action.
23. Submitted herewith as Exhibit U is the transcript of the deposition of Dr. Timothy Wade in this action.
24. I affirm that the foregoing statements are true. I am aware that if they are willfully false, I am subject to punishment

WHEREFORE, the defendant Poughkeepsie City School District requests that the Court render an order granting the Defendant a summary judgment, dismissing the amended Complaint in all respects and granting the Defendant such other and further relief as the Court may deem just and proper.

Dated: November 8, 2021

/S/
Mark C. Rushfield, Esq.